



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,536	02/23/2006	Darrel Jarvis	RR-610 PCT/US	1212
20427	7590	06/13/2008	EXAMINER	
RODMAN RODMAN 10 STEWART PLACE SUITE 2CE WHITE PLAINS, NY 10603			BRINSON, PATRICK F	
			ART UNIT	PAPER NUMBER
			3754	
			MAIL DATE	DELIVERY MODE
			06/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/569,536	Applicant(s) JARVIS ET AL.	
	Examiner Patrick F. Brinson	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-41 is/are rejected.
- 7) ☒ Claim(s) 42 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/24/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group II in the reply filed on 28 March 2008 is acknowledged. The traversal is on the ground(s) that the two groups of claims are in related pipe technology. This is not found persuasive because the search for the method of installing a pipeline into a bore hole would not necessarily require a search for a protective covering for a pipe.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24-26, 30, 31 and 35-40 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 7,168,451 to **Dundas**.

The patent to **Dundas** discloses a pipe (24) with a protective covering and a flexible sleeve surrounding the pipe, wherein the flexible sleeve (22) is comprised of a continuous length of a flexible, woven, seamless sleeve material, as recited in claims 24-26. The sleeve extends the length of the hose, as recited in claims 30, 31, 35 and 36. **Dundas** also discloses a coupler at the end of the pipe, including a plurality of fasteners (36) for holding the flexible sleeve onto the pipe, as recited in claims 37 and 38, with the sleeve between the inner and outer members.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27, 28, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Dundas** in view of U.S. 5,413,149 to **Ford et al.**

The patent to **Dundas** discloses the sleeve as being a woven material, but does not specifically disclose it as being a polyester material. The patent to **Ford et al.** discloses a shaped fabric product being well adapted for protecting elongated articles, such as hoses and conduits and other elongated flexible articles, having a longitudinal dimension being substantially greater than the width, diameter or girth of the product. It is disclosed that products of woven fabrics, have excellent flexibility and exceptional kink and abrasion resistance. It is disclosed that the sleeve has a twill pattern, and is comprised of synthetic fibers, having a good balance of high tensile properties, compressive and shear strength, as well as impact resistance, such polyesters. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sleeve of **Dundas**, such that it is formed of a twill weave woven polyester material, as suggested by **Dundas** in order to protect the hose and provide high tensile properties, as well as impact resistance.

4. Claims 29 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Dundas** in view of **Ford et al.** and **Neidhardt**.

The patent to **Dundas**, as discussed in the preceding paragraph discloses a woven sleeve, but does not specifically disclose the material of which it is formed. The patent to **Ford et al.** discloses the use of a twill woven polyester material and further disclose that it is known to provide this type of sleeves over elongated objects, such as pipes and conduits since they provide a balance of high tensile properties, compressive and shear strength, as well as impact resistance. The patent to **Neidhardt** discloses a tubular fabric coated with plastics such as thermoplastic polyurethane material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the sleeve of **Dundas** such that it is as woven polyester as suggested by **Ford et al.** and to include a thermoplastic polyurethane, as suggested by **Neidhardt** in order to produce a flexible sleeve with improved durability or abrasion resistance and a preferred degree of flexibility.

5. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Dundas**.

Dundas discloses the plurality of fasteners, but does not disclose the fasteners being arranged in a staggered configuration. It would have been an obvious matter of design choice to provide the plurality of fasteners in staggered configuration, since applicant has not disclosed that solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the fasteners aligned longitudinally. Therefore, it would have been prima facie obvious at the time the invention was made to modify **Dundas** to obtain the invention as specified in claim 41 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of **Dundas**.

Allowable Subject Matter

6. Claims 42 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents cited are pertinent to Applicant's invention in disclosing sleeves around pipelines and a connection member.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kevin P. Shaver** can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

Application/Control Number: 10/569,536
Art Unit: 3754

Page 6

like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick F. Brinson/
Primary Examiner, Art Unit 3754

P. F. Brinson
June 4, 2008